

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

WAYNE EDWARD HANDY, #11202078 §

VS. § CIVIL ACTION NO. 6:07cv300
CRIMINAL ACTION NO. 6:04cr91

UNITED STATES OF AMERICA §

ORDER ADOPTING REPORT AND RECOMMENDATION

On June 28, 2007, Petitioner Wayne Edward Handy, a prisoner confined in the federal prison system, filed this motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. The motion was referred to the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On October 16, 2008, this Court issued an Order granting Petitioner's motion to vacate/correct illegal sentence pursuant to 28 U.S.C. § 2255 to the extent that to the extent that a new Judgment will be entered in Criminal No. 6:04-cr-91 on only one count, with the remaining count dismissed. On June 15, 2009, the Fifth Circuit Court of Appeals denied his motion for certificate of appealability. On November 21, 2009, Plaintiff filed a Rule 60(b) motion for reconsideration of the judgment. The Magistrate Judge presented for consideration the Magistrate Judge's Report, containing proposed findings of fact and recommendations for disposition of the motion. The Report recommended denying the motions as successive § 2254 motions. No objections were filed.

This Court finds that the Magistrate Judge's findings and conclusions are correct, and adopts them as the Court's findings and conclusions. The Court therefore

ORDERS that Petitioner's Rule 60(b) motion (docket #35) is **DISMISSED** for lack of jurisdiction.

SIGNED this 12th day of March, 2010.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE